

2013 South Carolina Laws Act 61 (S.B. 2)

SOUTH CAROLINA 2013 SESSION LAWS

REGULAR SESSION

Additions and deletions are not identified in this document.

Vetoed are indicated by ~~Text~~ ;

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Act 61

S.B. No. 2

ELECTIONS—QUALIFICATIONS—CANDIDATES

AN ACT TO AMEND SECTION 7–11–10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO METHODS OF NOMINATING CANDIDATES, SO AS TO PROHIBIT A PERSON WHO WAS DEFEATED AS A CANDIDATE IN A PARTY PRIMARY OR BY PARTY CONVENTION FROM HAVING HIS NAME PLACED ON THE BALLOT FOR THE ENSUING GENERAL OR SPECIAL ELECTION EXCEPT WHEN THE PARTY'S NOMINEE DIES, RESIGNS, IS DISQUALIFIED, OR OTHERWISE CEASES TO BECOME THE PARTY'S NOMINEE FOR THAT OFFICE; TO AMEND SECTION 7–11–15, AS AMENDED, RELATING TO QUALIFICATIONS TO RUN AS A CANDIDATE IN GENERAL ELECTIONS, SO AS TO PROVIDE STREAMLINED GUIDELINES AND PROCEDURES FOR THE FILING OF STATEMENTS OF INTENTION OF CANDIDACY AND PARTY PLEDGE AND ANY FILING FEES TO THE STATE ELECTION COMMISSION OR THE COUNTY BOARD OF REGISTRATION AND ELECTIONS, AS APPROPRIATE; TO AMEND SECTION 7–11–30, RELATING TO PARTY CONVENTION NOMINATION OF CANDIDATES, SO AS TO PROVIDE A PROCEDURE FOR THE NOMINATION OF CANDIDATES BY PARTY CONVENTION BY A THREE–FOURTHS VOTE AT THE CONVENTION AND TO USE THE CONVENTION NOMINATION PROCESS WITH A MAJORITY VOTE IN THE PARTY'S NEXT PRIMARY ELECTION TO APPROVE THIS PROCESS; TO AMEND SECTION 7–11–210, AS AMENDED, RELATING TO NOTICE OF CANDIDACY AND PLEDGE, SO AS TO REFERENCE SECTION 7–11–15, DELETE PROVISIONS RELATING TO NOTICE, AND MAKE CONFORMING CHANGES TO THE PARTY PLEDGE; TO AMEND SECTION 7–13–40, AS AMENDED, RELATING TO THE TIME OF THE PARTY PRIMARY, CERTIFICATION OF NAMES, VERIFICATION OF CANDIDATES' QUALIFICATIONS, AND THE FILING FEE, SO AS TO PROVIDE CERTIFICATION OF CANDIDATES NOT LATER THAN NOON ON APRIL FIFTH OR NOON ON THE FOLLOWING MONDAY IF THE FIFTH FALLS ON THE WEEKEND; TO AMEND SECTION 7–13–45, AS AMENDED, RELATING TO FILING AS A CANDIDATE, SO AS TO REFERENCE THE REQUIREMENTS OF SECTION 7–11–15 AND MAKE CONFORMING CHANGES; TO AMEND SECTION 8–13–365, AS AMENDED, RELATING TO ELECTRONIC FILING FOR DISCLOSURES AND REPORTS, SO AS TO EXEMPT FORMS AND REPORTS REQUIRED PURSUANT TO ARTICLE 9, CHAPTER 13, TITLE 8 FROM THE STATE ETHICS COMMISSION'S DIRECTIVE TO ESTABLISH AN ELECTRONIC FILING SYSTEM AND TO DELETE OBSOLETE LANGUAGE; TO AMEND SECTION 8–13–1140, RELATING TO FILING OF AN UPDATED STATEMENT OF ECONOMIC INTERESTS, SO AS TO REFERENCE SECTION 8–13–365 AND TO CHANGE THE FILING DEADLINE FROM APRIL FIFTEENTH TO NOON ON MARCH THIRTIETH; TO AMEND SECTION 8–13–1356, AS AMENDED, RELATING TO THE FILING OF STATEMENTS OF ECONOMIC INTERESTS BY CANDIDATES, SO AS TO PROVIDE THAT A CANDIDATE WHO FILES A STATEMENT OF INTENTION OF CANDIDACY SEEKING NOMINATION BY POLITICAL PARTY PRIMARY OR CONVENTION MUST ELECTRONICALLY FILE A STATEMENT OF ECONOMIC INTERESTS PRIOR TO THE CLOSE OF FILING FOR THAT PARTICULAR OFFICE, A CANDIDATE WHO FILES A PETITION

FOR NOMINATION MUST FILE A STATEMENT OF ECONOMIC INTERESTS WITHIN FIFTEEN DAYS OF SUBMITTING THE PETITION, AND A PERSON WHO BECOMES A WRITE-IN CANDIDATE MUST ELECTRONICALLY FILE A STATEMENT OF ELECTRONIC INTERESTS WITHIN TWENTY-FOUR HOURS OF FILING AN INITIAL CAMPAIGN FINANCE REPORT OR BEFORE TAKING THE OATH OF OFFICE, WHICHEVER OCCURS EARLIER; TO REPEAL SECTION 7-11-220 RELATING TO NOTICE OR PLEDGE BY CANDIDATES FOR THE STATE SENATE; AND TO REQUIRE THE STATE ELECTION COMMISSION TO NOTIFY EACH COUNTY ELECTION COMMISSION OF THE PROVISIONS OF THIS ACT, TO POST THE PROVISIONS OF THIS ACT ON ITS WEBSITE, AND TO REQUIRE EACH STATE PARTY EXECUTIVE COMMITTEE TO NOTIFY THE COUNTY EXECUTIVE PARTIES OF THE PROVISIONS OF THIS ACT.

Be it enacted by the General Assembly of the State of South Carolina:

Nomination of candidates, prohibition of defeated candidates appearing on the ballot, exceptions

SECTION 1. Section 7-11-10 of the 1976 Code is amended to read:

<< SC ST § 7-11-10 >>

Section 7-11-10. Nominations for candidates for the offices to be voted on in a general or special election may be by political party primary, by political party convention, or by petition; however, a person who was defeated as a candidate for nomination to an office in a party primary or party convention shall not have his name placed on the ballot for the ensuing general or special election, except that this section does not prevent a defeated candidate from later becoming his party's nominee for that office in that election if the candidate first selected as the party's nominee dies, resigns, is disqualified, or otherwise ceases to become the party's nominee for that office before the election is held.

Candidate qualifications, streamlined guidelines and procedures

SECTION 2. Section 7-11-15 of the 1976 Code, as last amended by Act 3 of 2003, is further amended to read:

<< SC ST § 7-11-15 >>

Section 7-11-15. (A) In order to qualify as a candidate to run in the general election, all candidates seeking nomination by political party primary or political party convention must file a statement of intention of candidacy and party pledge and submit any filing fees between noon on March sixteenth and noon on March thirtieth as provided in this section.

(1) Except as otherwise provided in this section, candidates seeking nomination for a statewide, congressional, or district office that includes more than one county must file their statements of intention of candidacy, and party pledge and submit any filing fees with the State Election Commission.

(2) Candidates seeking nomination for the State Senate or House of Representatives must file their statements of intention of candidacy and party pledge and submit any filing fees with the county election commission in the county of their residence. The state executive committees must certify candidates pursuant to Section 7-13-40.

(3) Candidates seeking nomination for a countywide or less than countywide office shall file their statements of intention of candidacy and party pledge and submit any filing fees with the county election commission in the county of their residence.

(B) Except as provided herein, the election commission with whom the documents in subsection (A) are filed must provide a copy of all statements of intention of candidacy, the party pledge, receipt and filing fees, to the appropriate political party executive committee within two days following the deadline for filing. If the second day falls on Saturday, Sunday, or a legal holiday, the statement of intention of candidacy, party pledge, and filing fee must be filed by noon the following day that is not a Saturday, Sunday, or legal holiday. No candidate's name may appear on a primary election ballot, convention slate of candidates,

general election ballot, or special election ballot, except as otherwise provided by law, if (1) the candidate's statement of intention of candidacy and party pledge has not been filed with the county election commission or State Election Commission, as the case may be, as well as any filing fee, by the deadline and (2) the candidate has not been certified by the appropriate political party as required by Sections 7–13–40 and 7–13–350, as applicable. The candidate's name must appear if the candidate produces the signed and dated copy of his timely filed statement of intention of candidacy. An error or omission by a person seeking to qualify as a candidate pursuant to this section that is not directly related to a constitutional or statutory qualification for that office must be construed in a manner that favors the person's access to the ballot.

(C) The statement of intention of candidacy required in this section and in Section 7–13–190(B) must be on a form designed and provided by the State Election Commission. This form, in addition to all other information, must contain an affirmation that the candidate meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for the office sought. The candidate must file three signed copies and the election commission with whom it is filed must stamp each copy with the date and time received, keep one copy, return one copy to the candidate, and send one copy to the appropriate political party executive committee.

(D) The candidate must file three signed copies of the party pledge, as required pursuant to Section 7–11–210, and the election commission with whom it is filed must stamp each copy with the date and time received, return one copy to the candidate, and send one copy to the appropriate political party executive committee.

(E) The candidate must sign a receipt for the filing fee, and the election commission with whom it is filed must stamp the receipt with the date and time the filing fee was received, provide one copy to the candidate and provide one copy to the appropriate political executive party. The filing fee must be made payable to the appropriate political party.

(F) If, after the closing of the time for filing the documents required pursuant to this section, there are not more than two candidates for any one office and one or more of the candidates dies, or withdraws, the state or county committee, as the case may be, if the nomination is by political party primary or political party convention only may, in its discretion, afford opportunity for the entry of other candidates for the office involved; however, for the office of State House of Representatives or State Senator, the discretion must be exercised by the state committee.

(G) The county chairman of a political party and the chairman of the state executive committee of a political party may designate a person to observe the filings made at the election commission pursuant to this section.

(H) The provisions of this section do not apply to nonpartisan school trustee elections in any school district where local law provisions provide for other dates and procedures for filing statements of candidacy or petitions, and to the extent the provisions of this section and the local law provisions conflict, the local law provisions control.

Nomination of candidates, party convention election procedures

SECTION 3. Section 7–11–30 of the 1976 Code is amended to read:

<< SC ST § 7–11–30 >>

Section 7–11–30. (A) A party may choose to nominate candidates for all offices including, but not limited to, Governor, Lieutenant Governor, United States Senator, United States House of Representatives, Circuit Solicitor, State Senator, and members of the State House of Representatives if:

- (1) there is a three-fourths vote of the total membership of the convention to use the convention nomination process; and
- (2) a majority of voters in that party's next primary election approve the use of the convention nomination process.

(B) A party may not choose to nominate by party convention for an election cycle in which the filing period for candidates has begun.

(C) A political party nominating candidates by party convention shall nominate the party candidates and make the nominations public not later than the time for certifying candidates to the authority charged by law with preparing ballots for the general or special election.

Notice of candidacy and pledge, conforming changes

SECTION 4. Section 7–11–210 of the 1976 Code, as last amended by Act 236 of 2000, is further amended to read:

<< SC ST § 7–11–210 >>

Section 7–11–210. Every candidate for selection as a nominee of any political party for any state office, United States Senator, member of Congress, or solicitor, to be voted for in any party primary election or political party convention, shall file with and place in the possession of the appropriate election commission, pursuant to Section 7–11–15 by twelve o'clock noon on March thirtieth a party pledge in the following form, the blanks being properly filled in and the party pledge signed by the candidate: "I hereby file my notice as a candidate for the nomination as _____ in the primary election or convention to be held on _____. I affiliate with the _____ Party, and I hereby pledge myself to abide by the results of the primary or convention. I shall not authorize my name to be placed on the general election ballot by petition and will not offer or campaign as a write-in candidate for this office or any other office for which the party has a nominee. I authorize the issuance of an injunction upon ex parte application by the party chairman, as provided by law, should I violate this pledge by offering or campaigning in the ensuing general election for election to this office or any other office for which a nominee has been elected in the party primary election, unless the nominee for the office has become deceased or otherwise disqualified for election in the ensuing general election. I hereby affirm that I meet, or will meet by the time of the general or special election, or as otherwise required by law, the qualifications for this office".

Every candidate for selection in a primary election as the nominee of any political party for member of the Senate, member of the House of Representatives, and all county and township offices shall file with and place in the possession of the county election commission of the county in which they reside by twelve o'clock noon on March thirtieth a like party pledge.

The party pledge required by this section to be filed by a candidate in a primary must be signed personally by the candidate, and the signature of the candidate must be signed in the presence of an individual authorized by the election commission director. Any party pledge of any candidate signed by an agent on behalf of a candidate shall not be valid.

In the event that a person who was defeated as a candidate for nomination to an office in a party's primary election shall thereafter offer or campaign as a candidate against any nominee for election to any office in the ensuing general election, the state chairman of the party which held the primary (if the office involved is one voted for in the general election by the electors of more than one county), or the county chairman of the party which held the primary (in the case of all other offices), shall forthwith institute an action in a court of competent jurisdiction for an order enjoining the person from so offering or campaigning in the general election, and the court is hereby empowered upon proof of these facts to issue an order.

Certification of candidates, certification date changed

SECTION 5. Section 7–13–40 of the 1976 Code, as last amended by Act 236 of 2000, is further amended to read:

<< SC ST § 7–13–40 >>

Section 7–13–40. In the event that a party nominates candidates by party primary, a party primary must be held by the party and conducted by the State Election Commission and the respective county election commissions on the second Tuesday in June of each general election year, and a second and third primary each two weeks successively thereafter, if necessary. Written certification of the names of all candidates to be placed on primary ballots must be made by the political party chairman, vice chairman, or secretary to the State Election Commission or the county election commission, whichever is responsible under law for preparing the ballot, not later than twelve o'clock noon on April fifth, or if April fifth falls on a Saturday or Sunday, not later than twelve o'clock noon on the following Monday. Political parties nominating candidates by party primary must verify the qualifications of those candidates prior to certification to the appropriate election commission of the names of candidates to be placed on primary ballots. The written verification required by this section must contain a statement that each candidate certified meets, or will meet by the time of the general election, or as otherwise required by law, the qualifications for office for which he has filed. A political party must not certify any candidate who does not or will not by the time of the general election, or as otherwise required by law, meet the qualifications for the office for which the candidate has filed, and such candidate's name shall not be placed on a primary ballot. The filing fees for all candidates filing to run in all primaries, except municipal primaries, must be transmitted by the respective political parties to the State Election Commission and placed by the executive director of the commission in a special account designated for use in conducting primary elections and must be used for that purpose. The filing fee for each office is one percent of the total salary for the term of that office or one hundred dollars, whichever amount is greater.

Candidate filing, conforming changes

SECTION 6. Section 7–13–45 of the 1976 Code, as last amended by Act 434 of 1996, is further amended to read:

<< SC ST § 7–13–45 >>

Section 7–13–45. (A) In every general election year, the Executive Director of the State Election Commission and the director of each county election commission shall:

- (1) establish regular hours of not less than four hours a day during the final seventy-two hours of the filing period in which the director or some person he designates must be present to accept filings as required by Section 7–11–15;
- (2) place an advertisement to appear two weeks before the filing period begins in a newspaper of general circulation in the county at least five by seven inches in size that notifies the public of the dates of the filing periods, the offices which may be filed for, the place and street address where filings may be made, and the hours that an authorized person will be present to receive filings.

Economic interests statements, electronic filing, appointee exceptions, technical cleanup

SECTION 7. Section 8–13–365 of the 1976 Code, as last amended by Act 190 of 2010, is further amended to read:

<< SC ST § 8–13–365 >>

Section 8–13–365. The commission shall establish a system of electronic filing for all disclosures and reports required pursuant to Chapter 13, Title 8 and Chapter 17, Title 2 except for forms and reports required pursuant to Article 9, Chapter 13, Title 8. These disclosures and reports must be filed using an Internet-based filing system as prescribed by the commission. The information contained in the reports and disclosure forms, with the exception of social security numbers, campaign bank account numbers, and tax ID numbers, must be publicly accessible, searchable, and transferable.

Economic interests statements, deadline for filing changed

SECTION 8. Section 8–13–1140 of the 1976 Code, as added by Act 248 of 1991, is amended to read:

<< SC ST § 8–13–1140 >>

Section 8–13–1140. A person required to file a statement of economic interests under this chapter annually shall file, pursuant to Section 8–13–365, an updated statement for the previous calendar year, no later than noon on March thirtieth of each calendar year. If the person has filed the description by name, amount, and schedule of payments of a continuing arrangement relating to an item required to be reported under this article, an updating statement need not be filed for each payment under the continuing arrangement, but only if the arrangement is terminated or altered.

Economic interests statements, filing deadlines for particular candidates

SECTION 9. Section 8–13–1356 of the 1976 Code, as last amended by Act 330 of 1996, is further amended to read:

<< SC ST § 8–13–1356 >>

Section 8–13–1356. (A) A person who becomes a candidate by filing a statement of intention of candidacy seeking nomination by political party primary or political party convention must electronically file a statement of economic interests for the preceding calendar year pursuant to Section 8–13–365 prior to the close of filing for the particular office.

(B) A person who becomes a candidate by filing a petition for nomination must electronically file a statement of economic interests for the preceding calendar year pursuant to Section 8–13–365 within fifteen days of submitting the petition pursuant to Section 7–11–70 or 7–11–71.

(C) A person who becomes a write-in candidate must electronically file a statement of economic interests for the preceding calendar year within twenty-four hours of filing an initial campaign finance report pursuant to Section 8–13–1308(A) or before taking the oath of office, whichever occurs earlier.

(D) A candidate who is not a public official otherwise filing a statement has the same disclosure requirements as a public official with the exception of reporting gifts.

(E) The appropriate supervisory office shall assess a civil penalty pursuant to Section 8–13–1510 against a candidate who fails to timely file a statement of economic interests as required by this section.

Repeal

<< Repealed: SC ST § 7–11–220 >>

SECTION 10. Section 7–11–220 of the 1976 Code is repealed.

Notification of the act

SECTION 11. In order to educate various parties regarding the provisions contained in this act, the following notifications must be made:

- (1) The State Election Commission must notify each county election commission of the provisions of this act.
- (2) The State Election Commission must post the provisions of this act on its website.

(3) Each state party executive committee must notify their respective county executive parties of the provisions of this act.

One subject

SECTION 12. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution in that each provision relates directly to or in conjunction with other sections to the subject of election reform as stated in the title. The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in this act.

Severability Clause

SECTION 13. The provisions of this act are severable. If any section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of the act, the General Assembly hereby declaring that it would have passed each and every section, subsection, paragraph, subparagraph, item, subitem, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, items, subitems, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

Time effective

SECTION 14. This act takes effect upon preclearance approval by the United States Department of Justice or approval by a declaratory judgment issued by the United States District Court for the District of Columbia, whichever occurs first.

Ratified the 11th day of June, 2013.

Approved the 13th day of June, 2013.

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